IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

WEDNESDAY, THE 21ST NOVEMBER 2007 / 30TH KARTHIKA 1929

WP(C).No. 32846 of 2007(I)

PETITIONER:

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1. SONIA RAJEEV, 42/1926 B,
   OLD RAILWAY STATION ROAD,
   KOCHI - 18.

2. T.M.RAJEEVAN, 42/1926 B,
   OLD RAILWAY STATION ROAD,
   KOCHI - 18.

3. M.P.INDIRA, CHORAKODE HOUSE,
   PERUVAMBU P.O., PALAKKAD.

4. C.A.KAROL, W/O.C.D.SHAJI,
   CHARKULAM HOUSE, THRISSUR.

BY ADV. SRI.V.V.ASOKAN
SMT.S.AMINA

RESPONDENTS:

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1. KERALA FINANCIAL CORPORATION,
   REPRESENTED BY ITS MANAGING DIRECTOR,
   VELLAYAMBALAM, THIRUVANANTHAPURAM.

2. KERALA FINANCIAL CORPORATION,
   REPRESENTED BY ITS MANAGER,
   IST FLOOR, FINANCE TOWER,
   KALOOR, ERNAKULAM, KOCHI-17.

3. DEPUTY TAHSILDAR (RR),
   KERALA FINANCIAL CORPORATION,
   ERNAKULAM.

4. DISTRICT COLLECTOR, ERNAKULAM.

5. DISTRICT COLLECTOR, THRISSUR.

6. DISTRICT COLLECTOR, PALAKKAD.

7. STATE OF KERALA,
REPRESENTED BY CHIEF SECRETARY
TO GOVERNMENT, SECRETARIATE,
THIRUVANANTHAPURAM - 1.

BY ADV. SRI.M.M.SAYED MUHAMMED, SC, KFC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J

W.P.(C). 32846/2007

Dated this the 21st day of November, 2007

JUDGMENT

The petitioner was a defaulter to the first respondent. It is now the admitted case that availing of the benefit of a One Time Settlement scheme, petitioner discharged the whole liability and, therefore, asked for return of the documents deposited as security. However, the first respondent has not acceded to the request of the petitioner for the reason that the liability of the petitioner was reported for recovery as per the revenue recovery proceedings and therefore they are awaiting for a clearance certificate from the revenue authorities. It is for that reason, documents are not released to the petitioner.

2. I see no justification in the delay that is caused. It is a fact that the liability has been completely discharged and there is no dispute on that aspect. Only because a notice has been issued under the Revenue Recovery Act, a defaulter cannot be saddled with the liability to pay the

collection charges. Since the petitioner has discharged his liability awaiting of the benefit of OTS, it cannot be said that any recovery has been effected pursuant to the Revenue Recovery Proceedings. If that be so, I wonder how there can be any liability to pay collection charges. Further in view of the amendment of Section 71 of the Revenue Recovery Act, in any case, a defaulter cannot be made liable for collection charges in a case like this.

3. Therefore the first respondent shall return the documents of the petitioner forthwith, on production of a copy of this judgment.

ANTONY DOMINIC
Judge

mrcs